

**TIVERTON PLANNING BOARD
MINUTES OF SPECIAL MEETING
March 24, 2015**

Chairman Stephen Hughes called the special meeting of the Tiverton Planning Board to order at 7:00 P.M. at the Tiverton High School Auditorium, 100 North Brayton Road. Members present were: Vice Chairman Stuart Hardy, Patricia Cote, Rosemary Eva, Susan Gill, Carol Guimond, Edward Campbell and David Saurette. Also in attendance were: the Planning Board's Clerk and Administrative Officer Kate Michaud, planning consultant Kenneth Buckland of the Cecil Group and Town Planner Marc Rousseau. The Board's new legal counsel, Stephanie Federico, Anthony DeSisto and Peter Skwirz were also present.

1. Carpionato Group, LLC, Applicant – 1414 Atwood Avenue – Johnston, RI 02919 – Amendments to the Comprehensive Community Plan Public Hearing – Text Available at www.tiverton.ri.gov, Town Clerk's Office & Essex Library The Chairman asked Ms. Federico to begin by addressing the issue of notice. Ms. Federico stated that she had reviewed the letter that had been received from attorney Ken McGunagle representing the non-profit organization "Don't Malt Tiverton" regarding the issue of notice for the Comprehensive Community Plan amendments Public Hearing. She stated that she had reviewed RIGL §45-22.2-8, §45-24-53 and §45-23-40 d.2. and had determined that notice was proper in all three instances. She noted that this had also been the determination of the Board's previous counsel.

The Chairman noted that the Board had held six (6) meetings with approximately fourteen and a half (14.5) hours of public input on the Tiverton Crossings application. The Chairman made a motion to close the Public Hearing on the Comprehensive Community Plan amendments. Ms. Gill seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion.

Discussion then moved to agenda Item #2. Discussion of this item continued later in the meeting. (See pages 5 and 6 of these minutes.)

2. Carpionato Group, LLC, Applicant – 1414 Atwood Avenue – Johnston, RI 02919 – Master Plan Review – Public Informational Meeting – Major Land Development – Request for Zoning Ordinance & Map Amendment – Recommendation to the Town Council – S/S Souza Road, N/S Route 24, E/S Main Road – R-40 Zoning District – Plat 110 / Lot 102 (Vacant), Plat 301 / Lot 220 (Vacant), Plat 301 / Lot 221 (1148 Main Road) – Tiverton Crossings – Mixed-Use Major Land Development – Phased – (Retail / Office / Residential / Hotel / Restaurant) – Time Clock = 5/11/2014 / Revised Master Plan Submitted 11/6/2014

The Chairman noted that at the last substantive meeting (March 3, 2015) the Planning Board had voted to move on to the Master Plan and Zoning Amendments prior to voting on the Comprehensive Community Plan. The Chairman made a motion to close the Public Informational Meeting regarding the Master Plan application. Ms. Cote seconded the motion. Mr. Hardy asked if the public would have an opportunity to comment on the Master Plan at a later date. The Chairman replied in the negative. The motion passed 6-2. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Gill, Mr. Campbell and Mr. Saurette voted in favor of the motion. Ms. Eva and Ms. Guimond were opposed to the motion. The Chairman suggested moving on to deliberate regarding the Zoning Ordinance Amendments and Development Standards and Guidelines. He noted that Mr. Saurette had done a lot of work on these items.

A. Zoning Ordinance Amendment Request (Map & Text)

• Recommendation to Town Council

The Board reviewed the draft document page-by-page. Discussion ensued regarding the clause on consistency with the Comprehensive Community Plan, with Ms. Michaud noting that this does exist with other districts such as the Age Restricted Mixed Use Community. Ms. Federico suggested leaving this section in if it comports with past practice. The Board agreed by consensus to leave it in.

Mr. Hardy asked if “light industrial” was a desirable and compatible use in this proposed district. The Chairman read the proposed definition. Ms. Eva suggested that “light industrial” should be removed. The Chairman asked the Board members for opinions. Ms. Cote stated that it should be left in for something like Alex and Ani. The Chairman asked for a show of hands. Ms. Cote, Ms. Gill and Mr. Saurette preferred to leave the use in. Mr. Hughes, Mr. Hardy, Ms. Eva, Ms. Guimond and Mr. Campbell preferred to take the use out. The consensus was to take the use out. Ms. Eva noted that the ordinance could be further amended in the future. She added that the term should be struck throughout the document.

Ms. Gill asked if the “community center” use should remain in the document since there was no community center proposed on the Master Plan. Mr. Hardy suggested leaving this item in, as it would do no harm. The Board members agreed by consensus.

The Chairman referred to the definition of “conference facility”, noting that “entertainment” is listed twice. Ms. Federico suggested including both, since one would need a license and one would not. The Chairman asked the Board members for their feelings regarding “resort amenities”. Mr. Hardy stated that he did not have a problem with the proposed language, noting that outdoor noise would require a license from the Town Council.

Ms. Michaud noted that the use of “development area” and “developable area” was confusing. Mr. Buckland noted that the lot coverage was typically calculated as a percentage of lot area, not developable area. Ms. Michaud stated that, in this case, it appeared that lot coverage referred to total lot area, not suitable and unsuitable area. She suggested eliminating the term “developable land area” in the lot coverage definition and replacing it with “suitable land area”, as “suitable” is defined in the existing Town ordinances. The Board members agreed by consensus.

Ms. Eva referred to the definition of “hotel” and the inclusion of the term “exterior seasonal tent”. Mr. Saurette asked if the tent would follow the existing permitting process. Ms. Federico replied that the tent would need to go through permitting. The Chairman asked if each restaurant would be allowed a tent. Ms. Cote asked if outdoor weddings would fall into this category. Ms. Michaud suggested adding a separate definition for “exterior seasonal tent” and not tying it to any particular use such as a restaurant or hotel. The Board agreed by consensus to remove the “exterior seasonal tent” from the other uses and to create a separate use.

The Chairman proposed that there should be a limit on buildings under a single ownership to 55,000 square feet. Mr. Hardy noted that the Master Plan proposed one building with a 100,000 square foot footprint with a 55,000 square foot tenant. Discussion ensued. Mr. Saurette asked if the objective was to avoid large single users, or large single buildings. Ms. Guimond and Mr. Campbell agreed with the Chairman’s suggested limit. Ms. Gill preferred to leave as-is, noting that appearance and design would be important. Mr. Hardy stated that he agreed with Ms. Gill, and that creating an attractive appearance was important. He stated that allowing a larger building footprint, with the appearance of two buildings, the developer could have more flexibility to attract tenants that the Town would want to see. Ms. Cote stated that she was unsure, and was concerned about potential tenants. There was no consensus to change the draft document to limit the large building’s footprint to 55,000 square feet. Mr. Hughes, Ms. Eva, Ms. Guimond and Mr. Campbell were in favor of the limit. Ms. Cote, Ms. Gill, Mr. Hardy and Mr. Saurette preferred the existing language. The existing language moved forward.

The Chairman suggested deleting the exemption from the creation of affordable housing. He noted that the Town could choose in the future to adopt a “fee in lieu of” affordable housing option, which could be used to support the needs of existing homes in Town that could qualify as affordable. He suggested that the “fee in lieu of” should be recommended to the Town Council for adoption. Mr. Hardy stated that he supported this suggestion. The Board members agreed unanimously with the Chairman. Ms. Federico suggested including this in the recommendation letter to the Town Council.

Various other edits were reviewed by Mr. Saurette, including exterior storage, nuisances and density of uses. There were no objections to any of these edits. Mr. Saurette suggested replacing NLA (Net Leasable Area) with

GLA (Gross Leasable Area) in the density table as it was as it was much easier to calculate. He also suggested adding a maximum number of seats for restaurants. Ms. Federico suggested including the exterior seasonal tent to the density table with a maximum square footage and seating. She stated that she would research the size and number of seats typical for these tents.

Mr. Saurette reviewed the Site Design Regulations, noting that the Development Standards and Guidelines would be incorporated by reference. A brief discussion ensued regarding Building Coverage, with Ms. Michaud noting that the plan indicated that 9.7% Building Coverage was proposed. The Chairman suggested that Lot Coverage should be limited to 50% inclusive of all paved surfaces. Ms. Michaud noted that the Master Plan indicated that 60.8% Lot Coverage was proposed. Mr. Saurette clarified that the Chairman was suggesting reducing Lot Coverage by 10%. The Chairman replied in the affirmative. Mr. Hardy asked if this would include parking lots. Ms. Michaud noted that the definition provided would include impervious parking lots, but not pervious parking. The Chairman noted that more parking spaces were depicted than were required by Zoning.

A brief discussion ensued regarding height, with the Board members agreeing that the proposed height limit was acceptable. Signage was discussed. Mr. Saurette stated that it was customary to have a ten (10) foot setback for signage. Mr. Hardy asked why the proposed district could not conform to the existing sign ordinance; applying for a Special Use Permit for variations. The Chairman noted that the Industrial Park's Planned Development Park District contains separate signage regulations. Ms. Michaud noted that the Town's existing sign ordinance (Article XII) did not include regulations for a mixed-use zoning district, but only referred to residential, commercial and industrial districts. The Chairman asked if the size of the signs proposed was standard. Mr. Saurette replied that they were not excessive and that they accounted for the speed of traffic on the highway. Ms. Eva suggested adding a column to the sign dimensional table indicating that one (1) of each sign type would be allowed. Mr. Hardy asked for examples of four hundred (400) square foot signs, since it sounded very large to him. Mr. Saurette stated that the Wareham Crossing sign was approximately that size. Ms. Gill stated that the Chapel View was approximately that size. The Chairman asked for some examples for the Board for comparison. Mr. Saurette stated that he suggested crossing out the rest of the signage section to refer to the Development Standards and Guidelines.

Mr. Saurette noted that parking should be based on GLA instead of NLA. Mr. Buckland noted that this was standard, and that the Board could consider a maximum parking allowance. The off-site buffer requirement was discussed. Ms. Eva suggested leaving this section in. Mr. DeSisto stated that offsite improvements can be required, but would be subject to the approval of the property owner on which they are located. He added that the improvements required must mitigate the effects of development and tie to a specific purpose.

In Section 9.a. Ms. Michaud suggested added the clause "and/or". Ms. Eva suggested changing "Bylaw" to "Ordinance" in Section 12.a. Mr. Saurette reviewed proposed changes to Section 12 to include more specific architectural language and eliminate design "wiggle room". Mr. Hardy stated that he liked the changes very much. Mr. Saurette noted that a very important clause was added to page 20; to require Planning Board approval for all final exterior building designs. The Chairman opined that this was a good addition. Mr. Saurette stated that he suggested reducing light fixture height from 25 feet to 20 feet. The Chairman suggested striking Section 14 on page 20 regarding an affordable housing exemption.

At this time, 9:02 PM, the Chairman called for a recess for the stenographer. The session resumed at 9:16 PM.

The Chairman suggested that the Development Standards and Guidelines should be reviewed next. Ms. Federico recommended to the Chairman that votes of the Board occur in a specific order: Comprehensive Community Plan, Zoning and then Master Plan. Mr. Saurette stated that the proposed document touches on all of the elements included in the Zoning Ordinance. Ms. Eva asked if the language was used elsewhere. Mr. Saurette replied that much of it was taken from Lynnfield, Massachusetts.

Discussion ensued regarding the width of landscape islands within parking areas. Mr. Buckland stated that the standard would be to mirror the width of a parking space – nine (9) feet. Mr. Saurette stated that he preferred a six (6) foot width. The Board members agreed by consensus that six (6) feet was adequate. Screening and fencing was reviewed. Ms. Guimond asked about fence height limits in the Zoning Ordinance. Ms. Michaud referred to Zoning Ordinance Article VI, Section 2d, which limited fence height to seven (7) feet. She stated that if the Board intended to allow for taller fences, it should be addressed now. The Chairman suggested adding an item that fence height must be adequate to screen as intended.

Signage was reviewed. Mr. Campbell asked if illuminated signs would be allowed. Ms. Michaud replied in the affirmative, reviewing the sign types. Ms. Gill referred to page 12, Section 4.b, stating that there should be a limit to the number of exceptions allowed. After a brief discussion, the Board members agreed by consensus to remove the exceptions in this section. Mr. Campbell noted that the first sentence in Section 5.a was incomplete and must be corrected. The Chairman asked if the Board members were comfortable with the language contained in Section 5.c regarding Shop-in-Shop signs. The Board members had no objections. Mr. Buckland referred to Section 5.e on page 13, which allowed for blade signs. He noted that Section B.1.b. on page 8 already allowed for banners. He opined that this section should be removed. There was no consensus expressed.

Discussion ensued regarding address signs for residential uses. It was noted that the Fire Department would have requirements for address marking. Mr. Campbell noted that there were several capitalization errors in the document requiring correction. Mr. Buckland noted that Main “Street” must be corrected to read Main “Road”. The Chairman asked if the Board would like to include a table for storefront signs. Mr. Buckland opined that this was not necessary and that the reader could refer back to the Zoning Ordinance. Ms. Eva asked if there should be a reference to the Land Development and Subdivision Regulations. Ms. Michaud replied that there was already a reference in the Mixed Use Development District zoning. Ms. Michaud noted that she would also add a table of contents to the Development Standards and Guidelines and eliminate the index and glossary sections.

Attorney Ken McGunagle asked from the audience if the Board would hear from Don’t Mall Tiverton’s expert witness. The Chairman replied in the negative stating the public comment was closed.

The Chairman stated that he would like to include conditions on the Master Plan if this petition were to move forward. Ms. Federico reviewed some standard conditions, such as approval by the Town Council of the amended Zoning and Comprehensive Community Plan and a compliance with all other local, Federal and State approvals.

Ms. Eva asked if the Zoning Map should be addressed. Mr. DeSisto replied in the affirmative. The radius map submitted by the applicant was reviewed. Ms. Eva opined that there was not enough detail on this map, including abutter information and the legend. Ms. Michaud stated that she did not review this plan for completeness as it was her interpretation that the map was a requirement of the Town Council. She suggested that recommended amendments or corrections to the map could be forwarded to the Town Council.

Mr. DeSisto stated that the Zoning Ordinance must comport with the Comprehensive Community Plan, and that the first question is, “Is this appropriate?” He stated that this was the first question for the Future Land Use Map as well. Mr. Hardy stated that from the comments heard at the hearings and from the correspondence received, there was a great deal of concern regarding impacts on Main Road including additional traffic, turn lanes, traffic signals, impacts to the National Register Historic District as expressed by the RI Historical Preservation and Heritage Commission and safety concerns regarding bus stops as expressed by the Superintendent of Schools. Mr. Hardy suggested remedying these concerns by moving the project to the east and removing the Brito (Plat 301 / Lot 220) and Corr (Plat 301 / Lot 221) parcels from the development area and leaving only the Tiverton Associates Trust (McInnis) parcel (Plat 110 / Lot 102) containing approximately forty four (44) acres. He noted that this was the extent of the development proposed by New England Development. Mr. Hardy stated that this would remove all additional traffic signals on Main Road and access through the Historic Register District. He

asked his colleagues to consider making the project less controversial and at the same time allowing for more flexibility in development on the Tiverton Associates Trust parcel. He stated that he would be prepared to offer this in the form of a motion.

Mr. DeSisto stated that the application is the application, and that a reduction in the lots included in the Zoning Map amendment would be a recommendation to the Town Council. The Chairman noted that Mr. Hardy's proposal would change the application and asked if that would be considered a denial. Mr. DeSisto replied in the affirmative stating that Mr. Hardy's proposal would require a recommendation to deny for the following reasons: the proposed district is too large. Mr. Saurette noted that there were no new structures proposed on Plat 301 / Lot 221, only a road. He noted that leaving the house would create a non-conforming use. Mr. DeSisto replied that this may be correct, but that the application is the application and that it was proposed as it was to provide access.

The Chairman stated that the conditions that he had considered included requiring the main access from the Route 24 side of the property. He stated that the applicant had indicated that they were working with RIDOT regarding the potential for alternate access. He noted that this would remove the access on Main Road and eliminate the need for signals, concern regarding bus stops and most of the Main Road traffic. He suggested that traffic would exit to Souza Road and then to the highway. The Chairman opined that highway access would be optimal. Ms. Eva stated that she had concerns regarding water service. The Chairman stated that he would also propose this as a condition. Mr. DeSisto opined that these issues- entrance, exit, water – were more of Master Plan issues than Zoning. Ms. Michaud noted that if there was no Main Road access there would need to be some revisions to the proposed Zoning text. Mr. DeSisto stated that these issues were pertinent to Master Plan and suggested that the Board move to the next item on the agenda.

B. Revised Master Plan Application

• Conditional Approval or Denial

Ms. Gill stated that she thought that RIDOT had denied the request for access from the Route 24 side. She asked if Souza Road could handle being the only access point. The Chairman stated that there were wetlands issues on Souza Road that would limit the potential to widen the road. Mr. Hardy stated that expert testimony in the New England Development petition had indicated that Souza Road access only would be possible. The Chairman stated that this was why the New England Development petition was denied. Mr. Hardy replied that there was expert testimony. Ms. Eva clarified that the Route 24 access would not be direct, but via the existing Fish Road interchange.

The Chairman reviewed the conditions that he would recommend, including:

- Demonstration of adequate potable water and water for fire protection.
- Approval of the amended Zoning Ordinance text and map.
- Approval of the Comprehensive Community Plan amendments.
- Satisfaction of all peer review comments.
- Written approval from the Police and Fire Departments.
- A full traffic study, performed during the school year, would be required at Preliminary Plan.
- The phasing plan would be approved at Preliminary Plan and would maintain a mix of uses throughout construction.

Mr. Saurette noted that some of these items would be addressed at Preliminary Plan. The Chairman agreed, stating that he felt that they were important to note. He stated that other conditions could be added. The Chairman noted that the Town Council would still need to hold Public Hearings on the Zoning and the Comprehensive Community Plan amendments.

Ms. Guimond asked if the Comprehensive Community Plan would need to be amended in order to move forward. The Chairman recommended only changing the Future Land Use map, stating that there was enough language existing in the Plan. Mr. DeSisto noted that the Town Council would have the full application from Carpionato before them, along with the Board's recommendation. Mr. Saurette opined that Section 3.3 of the Comprehensive Community Plan must also be amended to include the "Mixed Use" language referenced in the Future Land Use Map. Mr. DeSisto agreed.

Discussion ensued regarding the added language in Section 3.3 of the Comprehensive Community Plan. It was agreed that in the first line "should" is replaced with "may". It was suggested that the term "any" should be removed. Ms. Michaud noted that it was proposed to remove the "Town Center" section of 3.3. Discussion ensued regarding the last sentence of the new language, regarding mitigating negative impacts on the Osborn-Bennett Historic District. It was suggested that the language could avoid reference to either structures or character and just reference the district itself.

Ms. Guimond asked how the amendment would affect the Master Plan. Mr. DeSisto stated that the amendments would be needed in order to approve the Master Plan, and that any Master Plan approval would need to include a condition regarding Town Council approval of Zoning and the Comprehensive Community Plan. Ms. Federico suggested that the Board may want to see a clean copy of the language before voting. The Chairman stated that a consensus was needed on whether or not to move forward with the Comprehensive Community Plan amendments. He stated that if there was no positive recommendation, there would be no need to proceed. Mr. DeSisto clarified that the other items would still require a vote, but the findings of fact would be based on inconsistency with the Future Land Use Map. Ms. Michaud stated that she would recirculate her September, 2014 memorandum regarding the required findings for the Master Plan and the Zoning amendments. She noted that it would be helpful to have a consensus on the Comprehensive Community Plan in order to frame the findings for Zoning and the Master Plan.

The Chairman called for a consensus on the proposed amendments to the Future Land Use Map to add the Mixed Use area, which would include Plat 301 / Lot 220, Plat 301 / Lot 221 and Plat 110 / Lot 102. Also included would be the amendments proposed to Section 3.3. Mr. Saurette stated that he would like a vote on this piece, as it had been discussed ad nauseam. He noted that this vote would dictate the path for the rest of the application. Mr. DeSisto recommended an approval or denial, with a direction to the Administrative Officer and Solicitor to prepare the written decision.

The Chairman made a motion to make a positive recommendation to the Town Council to amend Section 3.3 as discussed and the Future Land Use Map to include Plat 301 / Lot 220, Plat 301 / Lot 221 and Plat 110 / Lot 102 in a new Mixed Use area. Also included in the motion was a direction to the Administrative Officer and Solicitor to draft a written letter of recommendation to the Town Council for a vote at the next meeting. Ms. Cote seconded the motion. The motion passed 5-3. Ms. Cote, Ms. Gill, Mr. Hughes, Mr. Campbell and Mr. Saurette voted in favor of the motion. Ms. Eva, Ms. Guimond and Mr. Hardy were opposed to the motion.

C. Next Special Meeting Date and Items for Next Special Meeting Agenda

Meeting dates were discussed. Ms. Eva noted that she was not available on April 29. Mr. Saurette stated that he was not available on the 21st or the 23rd.

The Chairman made a motion to continue all items to April 16 at 7:00 PM at the Tiverton High School Auditorium. The motion was seconded by Ms. Eva. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion. The next meeting date held after April 16 would be April 28, with the location to be determined.

2. Tiverton Planning Board

A. Miscellaneous There was no miscellaneous discussion.

B. Adjournment: Ms. Eva made a motion to adjourn. The motion was seconded by Ms. Cote. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion. The meeting adjourned at 11:10 P.M.

(Italicized words represent corrections made on the approved date.)

Submitted by: _____
Kate Michaud, Clerk

Approval Date: draft